

MDR Tracking Number: M5-05-1765-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 2-22-05.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 1-23-04 through 2-18-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The IRO reviewed therapeutic exercises, gait training, office visits, massage therapy, therapeutic procedures-group and manual therapy technique that were denied for medical necessity.

The office visits, therapeutic exercises-group and massage therapy from 2-23-04 through 3-8-04 **were found** to be medically necessary. The gait training, manual therapy technique, therapeutic exercises and massage therapy-after 3-8-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The amount due the requestor for the medical necessity issues is \$695.34.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 3-17-05 the Medical Review Division submitted a Notice to the requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 99080-73 on 3-1-04, 4-5-04, 4-26-04 and 6-7-04 was denied by the carrier with a V for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requestor

submitted relevant information to support delivery of service. This dispute will be forwarded to Compliance and Practices for this violation. **Recommend reimbursement of \$60.00.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$755.34 from outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Decision and Order is hereby issued this 6th day of May 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision

May 5, 2005
April 29, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT
Corrected date of injury

Re: Medical Dispute Resolution
MDR #: M5-05-1765-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical

records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT
M5-05-1765-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Office notes 04/16/04 – 08/02/04

Physical therapy notes

Information provided by Respondent:

Designated doctor reviews

Information provided by Orthopedic Surgeon:

Office notes 11/18/03 – 05/05/04

Operative reports 02/26/04 – 04/07/04

Clinical History:

Patient is a 21-year-old female who, on ____, injured her lower back and right ankle in a work-related accident. She was initially seen by a medical clinic, was x-rayed and released with a prescription for pain. She then sought treatment from a doctor of chiropractic on 11/14/03 and began physical therapy and rehabilitation. Despite the conservative trial, the patient eventually received two epidural steroid injections, the first one on 2/26/04 and the second one on 4/7/04, both followed by post-injection therapy.

Disputed Services:

Therapeutic exercises, gait training, subsequent visits, massage therapy, therapeutic procedures, manual therapy technique and office visits during the period of 02/23/04 through 08/02/04.

Decision:

The reviewer partially disagrees with the determination of the insurance carrier and is of the opinion that the established patient office visits, levels I and III (99211 & 99213), the therapeutic exercises in group settings (97150) were medically necessary throughout the period in dispute. The massage therapy procedures (97124) were medically necessary during the period of 02/23/04 through 03/08/04. All remaining services and treatments in dispute were not medically necessary in this case.

Rationale:

In this case, it was both reasonable and appropriate for the treating doctor of chiropractic to perform periodic evaluations and assessments of the patient in managing her case (office visits 99211 and 99213). Also, the doctor's daily narratives adequately documented the presence of muscular spasticity through date of service 3/8/04, so the medical necessity for massage therapy services (97124) was supported through that time.

However, "tenderness and spasm" was last documented in the patient's medical records on date of service 4/5/04 (it was not reported after 3/8/04 until 5/3/04); therefore, the medical necessity was unsupported for performing massage on 5/3/04, or thereafter.

Insofar as the one-on-one therapeutic exercises were concerned (97110), the medical necessity for this was not supported because the records also clearly showed that the patient was successfully participating in group exercises (97150) during this same time. Since the records lacked any specific rationale concerning why it was necessary to continue one-on-one therapy in addition to group therapy, these services were not medically necessary *even if they were performed*. In addition, the patient had already been participating in supervised activities long enough to have safely been transitioned into a home program. The implementation of a home program is also important considering that current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹ Any gains obtained in this time period would have likely been achieved through performance of a home program.

¹ Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

In terms of the gait training service provided (97116), the medical records failed to establish any gait abnormalities that would otherwise warrant the performance of this service. In fact, on the contrary, the records of the treating doctor repeatedly stated, “The patient ambulated well without assistance” (DOS 1/16/04, 1/28/04, 2/16/04, 3/1/04, 3/19/04). In addition, the treating doctor’s “Treatment Plan” sections of his notes also failed to even mention the specifics of the gait training procedures. Therefore, the medical necessity of this service was unsupported.

And finally, in reference to the manual therapy techniques (97140), it is unclear precisely what was performed under the umbrella of services represented by this code. According to CPT², this service might represent manual traction, joint mobilization, myofascial release, or other services, but it is incumbent upon the provider to specify which specific service was performed when this code is reported. Since the records were devoid of any mention of the particular service that was provided on any of the various dates of service that 97140 appeared, it is impossible to determine the medical necessity of this service.

² CPT 2004: *Physician’s Current Procedural Terminology, Fourth Edition, Revised*. (American Medical Association, Chicago, IL 1999),